## THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL KESLOSKY,

Plaintiff

٧.

BOROUGH OF OLD FORGE, et al.,

3:08-CV-1240 (JUDGE MARIANI)

**Defendants** 

٧.

MUNICIPAL POLICE OFFICERS EDUCATION AND TRAINING COMMISSION,

**Third-Party Defendant** 

## <u>ORDER</u>

AND NOW, THIS DAY OF DECEMBER, 2014, upon consideration of the Motion for Summary Judgment of Defendants, Borough of Old Forge, Lawrence A. Semenza, Anthony J. Toquato, Jr., David Scarnato, Alan Heyen, Shirley Helbing, and James P. Minella (Doc. 104), and all accompanying briefs, IT IS HEREBY ORDERED THAT the motion is GRANTED IN PART AND DENIED IN PART, to wit:

The motion is **GRANTED** as to Count II (First Amendment retaliation) of Plaintiff's
 Amended Complaint and judgment is entered **IN FAVOR OF** Defendants, Borough
 of Old Forge, Lawrence A. Semenza, Anthony J. **T**oquato, Jr., David Scarnato, Alan
 Heyen, Shirley Helbing, and James P. Minella.

- The motion is GRANTED as to Count III (42 U.S.C. § 1983) of Plaintiff's Amended Complaint and judgment is entered IN FAVOR OF Defendants, Borough of Old Forge, Lawrence A. Semenza, Anthony J. Toquato, Jr., David Scarnato, Alan Heyen, Shirley Helbing, and James P. Minella.
- The motion is GRANTED IN PART AND DENIED IN PART as to Count IV (38 U.S.C. § 4301, et seq.) of Plaintiff's Amended Complaint.
  - a. The motion is **GRANTED** with respect to Defendants Lawrence A. Semenza, Anthony J. Toquato, Jr., David Scarnato, Alan Heyen, Shirley Helbing, and James P. Minella and judgement is entered **IN FAVOR OF** these Defendants.
  - b. The motion is **DENIED** with respect to Defendant Borough of Old Forge.
- The motion is GRANTED IN PART AND DENIED IN PART as to Count V (51 P.S. § 7101, et seq.) of Plaintiff's Amended Complaint.
  - a. The motion is **GRANTED** with respect to Defendants Lawrence A. Semenza, Anthony J. Toquato, Jr., David Scarnato, Alan Heyen, Shirley Helbing, and James P. Minella and judgement is entered **IN FAVOR OF** these Defendants.
  - b. The motion is **DENIED** with respect to Defendant Borough of Old Forge.

- 5. The motion is **GRANTED** as to Count VI (43 P.S. § 955(a) national origin/ancestry) of Plaintiff's Amended Complaint and judgment is entered **IN FAVOR OF** sole

  Defendant Borough of Old Forge
- The motion is **GRANTED** as to Count VII (43 P.S. § 955(a) religion) of Plaintiff's Amended Complaint and judgment is entered **IN FAVOR OF** sole Defendant Borough of Old Forge.
- 7. The motion is **GRANTED** as to Count VIII (43 P.S. § 955(d)) of Plaintiff's Amended Complaint and judgment is entered **IN FAVOR OF** sole Defendant Borough of Old Forge.
- 8. The motion is **GRANTED** as to Count IX (42 U.S.C. § 2000e, *et seq.*) of Plaintiff's Amended Complaint and judgment is entered **IN FAVOR OF** sole Defendant Borough of Old Forge.
- 9. The case will be scheduled for trial on Counts IV and V.
- 10. A telephone scheduling conference will be held on Friday, January 9, 2015 at 11:15 a.m. Counsel for the Plaintiff is responsible for arranging the call to (570) 207-5750, and all parties should be ready to proceed before the undersigned is contacted.

Robert D. Mariani

**United States District Court Judge**